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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,239	03/08/2001	Jonathan Andrew Thompson	ASPN 1000-1	6664
22470	7590	10/22/2004	EXAMINER	
HAYNES BEFFEL & WOLFELD LLP P O BOX 366 HALF MOON BAY, CA 94019			LY, NGHII H	
			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/802,239

**Applicant(s)**

THOMPSON ET AL.

**Examiner**

Nghi H. Ly

**Art Unit**

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The Abstract submitted on 07/13/2004 is acceptable.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 4-7, 10-12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manning et al (US 6,088,578) in view of Ruszczyk et al (US 5,615,212) and further in view of Fall et al (US 5,430,724).

Regarding claim 1, 11 and 12, Manning teaches a wireless telecommunications system for connecting to a data link and for routing data packets between the data link

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and a subscriber terminal of the wireless telecommunications system (see fig. 1, wireless communication between MS 28, MS 30 and MS 32 with BTS 22, or see fig. 5, wireless connection between BS and MS 60), the subscriber terminal being connectable to a central terminal of the wireless telecommunications system via a radio resource (also see fig. 5, wireless connection between BS and MS 60), the wireless telecommunications system providing a group of communication channels arranged to utilize the radio resource for transmission of data packets (see column 1, line 64 to column 2, lines 4), the group being shared by a plurality of subscriber terminals and consisting of downlink communication channels for transmission of data packets from the central terminal to the subscriber terminals and uplink communication channels for transmission of data packets from the subscriber terminals to the central terminal (also see column 1, line 64 to column 2, lines 4), the wireless telecommunications system further comprising: a subscriber controller within the subscriber terminal arranged, when a data packet is to be transmitted to the data link (see column 3, lines 3-9 and column 4, lines 14-24), to acquire an uplink communication channel from the group to enable that data packet to be transmitted via the central terminal to the data link (see column 3, lines 3-9 and column 4, lines 14-24), for receiving information concerning the traffic loading of predetermined elements of the wireless telecommunications system (see column 4, lines 14-58), and for applying predetermined criteria based on that information to determine how long the uplink communication channel may be acquired for by the subscriber terminal before causing the subscriber controller to release the uplink communication channel for use by other subscriber terminals (see column 3,

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lines 15-29) and preventing from keeping the uplink communication channel acquired indefinitely (also see column 3, lines 15-29).

Manning does not specifically disclose a resource monitor within the subscriber terminal, for receiving information concerning the traffic loading of predetermined elements of the wireless telecommunications system, and for applying predetermined criteria based on that information to determine how long the uplink communication channel may be acquired for by the subscriber terminal for its own use.

Ruszczyk teaches a resource monitor within the subscriber terminal, for receiving information concerning the traffic loading of predetermined elements of the wireless telecommunications system, and for applying predetermined criteria based on that information to determine how long the uplink communication channel may be acquired for by the subscriber terminal for its own use (see column 1, lines 45-51 and column 4, lines 25-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Ruszczyk into the system of Manning in order to reduce the traffic load on the a wireless telecommunications system.

The combination of Manning and Ruszczyk does not specifically disclose arranging so that the subscriber terminal is allowed to acquire the uplink communication channel for a longer period than that required to send an individual data packet.

Fall teaches arranging so that the subscriber terminal is allowed to acquire the uplink communication channel for a longer period than that required to send an

individual data packet (see column 4, lines 59-61, Fall teaches each user is permitted to transmit until a complete block of data has been sent. Therefore, the teaching of Fall inherently teaches “for a longer period than that required to send an individual data packet” as claimed since sending a complete block of data required a longer period than to send an individual data packet. In addition, the term “is permitted” in Fall means to grant an extra period of time).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Fall into the system of Manning and Ruszczyk in order to transmit uninterrupted data in consecutive bytes (see Fall, column 4, lines 59-61).

Regarding claims 4-7, Manning further teaches the resource monitor is arranged to determine from the received information a first parameter identifying the maximum hold time of the uplink communication channel after which it must be released even if more data packets are waiting to be sent by the subscriber terminal, the first parameter being used by the resource monitor when applying the predetermined criteria (see column 3 lines 15-29).

Regarding claim 10, Manning further teaches the group of communication channels is programmable, and information identifying the communication channels forming the group is distributed to the subscriber terminal over a broadcast communication channel (see column 1, lines 19-30).

Regarding claims 14 and 15, Manning further teaches a computer program operable to configure a wireless telecommunications system to perform a method as claimed in (see Abstract).

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Manning et al (US 6,088,578).

Regarding claim 9, Mannig teaches a wireless telecommunications system as claimed in claim 1, wherein the radio resource is one or more frequency channels (column 3, lines 18-29, see "additional traffic channels"). Manning does not specifically disclose the communication channels are orthogonal channels. The concept of orthogonal channels is well known in the art and the examiner takes Official Notice that it would have been obvious to one of ordinary skill in the art to provide an orthogonal channel in order to improve the system of Manning.

6. Claims 2, 3, 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manning et al (US 6,088,578) in view of Ruszczyk et al (US 5,615,212) and further in view of Fall et al (US 5,430,724) and Chakrabarti et al (US 6,678,281).

Regarding claims 2, 8 and 13, the combination of Manning, Ruszczyk and Fall teaches a wireless telecommunications system as claimed in claims 1, 11 and 12.

The combination of Manning, Ruszczyk and Fall does not specifically disclose a congestion determination unit for determining the information concerning the traffic loading of the predetermined elements of the wireless telecommunications system and

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for periodically broadcasting that information to the subscriber terminal, the resource monitor being arranged to use that broadcast information when applying the predetermined criteria.

Chakrabarti teaches a congestion determination unit for determining the information concerning the traffic loading of the predetermined elements of the wireless telecommunications system and for periodically broadcasting that information to the subscriber terminal, the resource monitor being arranged to use that broadcast information when applying the predetermined criteria (see column 8, lines 18-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Chakrabarti into the system of Manning, Ruszczyk and Fall in order to provide a method for implementing GPRS over GSM which is efficient, robust and cost effective (see Chakrabarti, column 2, lines 30-33).

Regarding claim 3, the combination of Manning, Ruszczyk, Fall and Chakrabarti further teaches the resource monitor is further arranged to receive local information relating to its subscriber terminal and uses that local information in addition to the broadcast information when applying the predetermined criteria (see Chakrabarti, column 8, lines 6-17).

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.



On page 12 of applicant's remarks, applicant argues that Chakrabarti does not teach the provision of a resource monitor within the subscriber terminal.

The examiner, however, disagrees. In claims 2 and 13, the limitation "within the subscriber terminal" has been deleted. Therefore, Chakrabarti does indeed teach applicant's claimed limitation. In addition, applicant's attention is directed to the rejection of claims 2, 8 and 13 above.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703) 605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly

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*12/15/04*

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